

REMARKS

After entry of this amendment, claims 1, and 3-37 will be pending for the Examiner's review and consideration. Claims 1, 3-5, and 8 have been amended. Claim 2 has been cancelled. Claims 26-37 have been added. No new matter has been added. Reconsideration and allowance of the present application in view of the above amendments and the following remarks is respectfully requested.

This amendment responds to the office action mailed October 6, 2003. In the office action the Examiner:

- rejected claims 1-25 under 35 U.S.C. § 102(b) as being anticipated by Larsen.

Independent Claim 1

Claims 1-25 were rejected under 35 U.S.C. § 102(b) as being anticipated by Larsen for the reasons given on pages 2 and 3 of the Office Action.

Independent claim 1 has been amended to recite a longitudinal member having a channel and a shaft positioned coaxially within and extending along at least a portion of the longitudinal member, at least a portion of the shaft retained within the channel of the longitudinal member and having a distal end configured and adapted to contact at least a portion of the fixation element, wherein the longitudinal member includes a first member for receiving at least one fixation element at the distal end and a second member attached coaxially to the first member, the first member being movable with respect to the second member; and wherein the longitudinal member is moveable with respect to the shaft to drive the fixation element into bone. There is no disclosure, teaching, or suggestion in Larsen of an insertion device having a longitudinal member and a shaft wherein the longitudinal member comprises a first and a second member moveable with respect to one another and wherein the longitudinal member is also moveable with respect to the shaft. Rather Larsen simply discloses an outer sleeve and an inner plunger rod, wherein the outer sleeve and the inner plunger rod are telescopically arranged.

It is respectfully submitted that independent claim 1 is thus allowable over the cited prior art. Withdrawal of this rejection and allowance of independent claim 1 is respectfully requested.

Claims 3-7 all ultimately depend from claim 1, and thus, it is respectfully submitted that these claims are equally allowable. Withdrawal of this rejection and allowance of claims 3-7 is therefore respectfully requested.

Newly Added Dependent Claim 37

Dependent claim 37 has been added to further clarify the present invention. As claim 37 ultimately depends from claim 1, it is respectfully submitted that claim 1 is allowable and thus claim 37 is likewise allowable.

Independent Claim 8

Independent claim 8 has been amended to recite a longitudinal member having a channel and a shaft positioned coaxially and extending within at least a portion of the channel of the longitudinal member, wherein the longitudinal member includes a first member for receiving at least one fixation element at the distal end and a second member attached coaxially to the first member, the first member being movable with respect to the second member; and wherein the longitudinal member is moveable with respect to the shaft. There is no disclosure, teaching, or suggestion in Larsen of an insertion device having a longitudinal member and a shaft wherein the longitudinal member comprises a first and a second member moveable with respect to one another and wherein the longitudinal member is also moveable with respect to the shaft. Rather Larsen simply discloses an outer sleeve and an inner plunger rod, wherein the outer sleeve and the inner plunger rod are telescopically arranged.

Moreover, independent claim 8 has been amended to recite wherein the longitudinal member is moveable with respect to the shaft so that the distal end of the shaft contacts the head of the fixation element to drive the fixation element into bone. There is no disclosure, teaching, or suggestion in Larsen of an insertion device having an outer longitudinal member that is moveable with respect to the shaft so that the distal end of the shaft contacts the head of the fixation element. Rather, Larsen discloses an inner plunger rod that has an opening in the distal end thereof for receiving the suture.

It is respectfully submitted that independent claim 8 is thus allowable over the cited prior art. Withdrawal of this rejection and allowance of independent claim 8 is respectfully requested.

Newly Added Dependent Claims 26-30

Dependent claims 26-30 have been added to further clarify the present invention. As claims 26-30 all ultimately depend from claim 8, it is respectfully submitted that claim 8 is allowable and thus claims 26-30 are likewise allowable.

Independent Claim 9

Independent claim 9, as originally filed, recites an elongated sleeve having a hollow portion, the hollow portion of the sleeve communicating with the recess in the handle to form a channel, the sleeve adapted to hold the head portion of the tack. Claim 9 further recites a shaft at least a portion of which extends within the channel, the shaft having a distal end adapted to contact the head of the tack when it is driven into the bone, wherein when a force is applied to the handle, the channel shortens in length and the distal end of the shaft contacts the head of the bone tack and drives the bone tack into bone. There is no disclosure, teaching, or suggestion in Larsen of an insertion device having an elongated sleeve adapted to hold the head portion of a tack and a shaft positioned within the elongated sleeve adapted to contact the head of the tack when a force is applied. Rather, Larsen discloses an outer sheath tube and an inner plunger rod, wherein the inner rod has an opening in the distal end thereof for holding the suture anchor. The outer sheath tube does not hold the suture anchor.

It is respectfully submitted that independent claim 9 is thus allowable over the cited prior art. Withdrawal of this rejection and allowance of independent claim 9 is respectfully requested.

Newly Added Dependent Claims 31-36

Dependent claims 31-36 have been added to further clarify the present invention. As claims 31-36 all ultimately depend from claim 9, it is respectfully submitted that claim 9 is allowable and thus claims 31-36 are likewise allowable.

Independent Claim 10

Independent claim 10, as originally filed, recites a longitudinal member having a channel and a plurality of carrier members positionable within the channel, wherein each carrier member comprises a body extending from a distal body end to a proximal body end and the distal body end is adapted to receive at least a portion of a fixation element. There is no disclosure, teaching, or suggestion in Larsen of a longitudinal member having a channel

capable of receiving a plurality of carrier members. Rather, Larsen discloses an outer sheath tube and an inner plunger rod, wherein the inner rod has an opening for receiving a single two-piece suture anchor.

It is respectfully submitted that independent claim 10 is thus allowable over the cited prior art. Withdrawal of this rejection and allowance of independent claim 10 is respectfully requested.

Claims 11-23 all ultimately depend from claim 10, and thus, it is respectfully submitted that these claims are equally allowable. Withdrawal of this rejection and allowance of claims 11-23 is therefore respectfully requested.

Independent Claim 24

Independent claim 24, as originally filed, recites a carrier body extending from a distal body end to a proximal body end, said body comprising, a holding portion positioned at the distal body end adapted to releasably hold the fixation element, and a receiving portion integral to the holding portion positioned at the proximal body end and defining an interior cavity adapted to receive the distal body end of an adjacent carrier body, and said adjacent carrier bodies are stackable. There is no disclosure, teaching, or suggestion in Larsen of a stackable carrier body. Rather, Larsen discloses a single two-piece suture anchor.

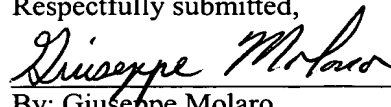
It is respectfully submitted that independent claim 24 is thus allowable over the cited prior art. Withdrawal of this rejection and allowance of independent claim 24 is respectfully requested.

Claim 25 ultimately depends from claim 24, and thus, it is respectfully submitted that claim 25 is equally allowable. Withdrawal of this rejection and allowance of claim 25 is therefore respectfully requested.

In light of the above amendments and remarks, it is respectfully submitted that claims 1, and 3-37 are now in condition for allowance, and the Examiner is respectfully requested to reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney at 212-790-6348, if a telephone call could help resolve any remaining issues.

Date: January 6, 2004

Respectfully submitted,



By: Giuseppe Molaro

52,039

(Reg. No.)

35,340

For: Brian M. Rothery

(Reg. No.)

JONES DAY

222 East 41st Street

New York, New York 10017

(212) 326-3939